



PHILIP MORRIS

U. S. A.

120 PARK AVENUE, NEW YORK, N.Y. 10017-5592 TELEPHONE (212) 850-5000

June 27, 1994

Richard P. Crystal, Chairman
Product Development
Macy Product Development, a division of
R. H. Macy & Co., Inc.
Eleven Penn Plaza
New York, New York 10001

Re: Parliament Continuity Collection

Dear Mr. Crystal:

This letter, when countersigned below, constitutes the agreement between Philip Morris Incorporated ("Philip Morris"), a Virginia Corporation with executive offices located at 120 Park Avenue, New York, New York 10017 and Macy Product Development, a division of R. H. Macy & Co., Inc. ("MPD"), a Delaware corporation with offices located at Eleven Penn Plaza, New York, New York 10001, pursuant to which MPD has rendered or will render the following services for Philip Morris under the terms and conditions stated.

1. Services

MPD will develop original creative concepts for ten items to be included within Philip Morris' Parliament Continuity Collection. MPD will design, develop, create and illustrate executions of the concepts for presentation to Philip Morris during the week beginning June 6, 1994. Philip Morris will select three of the ten items presented for further development. MPD will then produce detailed specifications for production and three samples of each of the three items selected by Philip Morris for refinement or production by MPD or third parties selected by Philip Morris. The specifications and samples must be delivered to Philip Morris, in final form, on or before July 15, 1994.

If any portion of a creative concept presented by MPD is proprietary to a third party, MPD will inform Philip Morris of the third party's proprietary interest, in writing, at the time the concepts are presented to Philip Morris.

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2. Payment

In full and complete consideration for the services rendered and expenses incurred by MPD throughout the term of the Agreement, Philip Morris will pay MPD \$7,500 upon MPD's complete performance, including delivery of samples and detailed specifications to Philip Morris and submission of an invoice.

3. Term and Termination

The term of the Agreement commenced as of the 1st day of June, 1994 and will continue until the later of July 31, 1994 or complete performance of all services to the satisfaction of Philip Morris. Philip Morris may terminate the Agreement, with or without cause, upon written notice to MPD. If Philip Morris terminates the Agreement without cause, Philip Morris will have no liability to MPD after the effective date of the notice of termination, with the exception of payment for services satisfactorily performed and expenses properly incurred prior to the notice of termination.

4. Records

MPD, its employees and agents will maintain detailed and accurate books and records of account with respect to activities undertaken on behalf of Philip Morris. At the request of Philip Morris, Philip Morris or its designated agent may inspect, review and copy such books and records at reasonable times during normal business hours upon reasonable, advance notice to MPD and at the expense of Philip Morris.

5. Ownership

All material prepared or developed by MPD in connection with the three items selected as described in Paragraph 1 of the Agreement will become the property of Philip Morris and MPD hereby agrees to assign to Philip Morris any and all rights to copyright the material. MPD will require that all agents and subcontractors performing creative services in connection with the Agreement agree to assign the materials they produce to Philip Morris and to acknowledge, in writing, that their copyrightable contributions are owned by Philip Morris. MPD will obtain all consents and releases necessary to the proper performance of the Agreement. Notwithstanding the foregoing, Philip Morris acknowledges that some of MPD's work under the Agreement may incorporate generally available products, ideas or works, and that MPD cannot, and therefore will not, convey any proprietary rights therein to Philip Morris.

6. Confidentiality

MPD, its employees and agents will hold strictly confidential all information and materials provided by Philip Morris to MPD or created by MPD in performing the Agreement. The information and material will remain the property of Philip Morris. MPD will not use or disclose the information and materials to third parties without the written consent of Philip Morris. Upon termination or expiration of the Agreement, or within thirty days thereafter, MPD will return

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all materials to Philip Morris. MPD's obligation to maintain the confidentiality of all information obtained from Philip Morris will survive the termination of the Agreement.

7. Indemnity

MPD indemnifies and holds harmless Philip Morris, its affiliates and their officers, employees, directors and agents from all claims, liabilities, costs and expenses, including reasonable attorneys' fees, that arise from, or may be attributable to errors, omissions or fault of MPD, and which are not caused by Philip Morris. MPD's obligation to indemnify and hold harmless will survive the termination of the Agreement.

Philip Morris indemnifies and holds harmless MPD, its affiliates and their officers, employees, directors and agents from all claims, liabilities, costs and expenses, including reasonable attorneys' fees, that arise from, or may be attributable to errors, omissions or fault of Philip Morris, and which are not caused by MPD. Philip Morris' obligation to indemnify and hold harmless will survive the termination of the Agreement.

8. Insurance

Within ten days of execution of the Agreement, MPD will deliver to Philip Morris certificates of insurance evidencing coverage for (1) comprehensive general liability, including advertiser and contractual liability, with limits of no less than 1 Million Dollars combined single limit for personal injury and property damage; (2) statutory worker's compensation coverage meeting all state and local requirements; and, (3) employer's liability with limits of no less than 500,000 dollars.

9. Independent Contractor

MPD is an independent contractor and the Agreement shall not be construed to create an association, partnership, joint venture, relation of principal and agent or employer and employee between Philip Morris and MPD or its agents within the meaning of any federal, state or local law. MPD will not enter into any agreement, oral or written, on behalf of Philip Morris or otherwise obligate Philip Morris without Philip Morris' advance written approval.

10. Exclusivity

During the term of the Agreement, and for six months thereafter, MPD will not, without the prior consent of Philip Morris, engage in creative consulting or similar activities for any company or entity which manufactures tobacco products that compete with any tobacco product of Philip Morris.

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11. Miscellaneous

(a) The Agreement and all matters collateral hereto, shall be governed by the laws of the State of New York applicable to agreements made and to be performed entirely within the State of New York.

(b) MPD must comply with all applicable laws, regulations, and ordinances relating to its performance of the agreement.

(c) This Agreement is the complete agreement between the parties and supersedes any prior oral or written agreement concerning the subject matter.

(d) If any provision of the Agreement is held invalid or unenforceable, the remaining provisions will remain in effect.

(e) The Agreement may not be amended or assigned except in a writing signed by both parties. If an assignment occurs, the assignment will not relieve the assigning party of its liabilities and obligations under the Agreement. The Agreement is binding upon successors and assignees of the parties. A waiver by either party of any of the terms and conditions of the Agreement in one or more instances will not constitute a permanent waiver of the terms and conditions.

(f) Notices provided shall be in writing and sent by certified mail, return receipt requested. Notices to MPD will be sent to Macy Product Development, a division of R. H. Macy & Co., Inc., Eleven Penn Plaza, New York, New York 10001, Attention: Mary Ott, Vice President. Notices to Philip Morris will be sent to Philip Morris Incorporated, 120 Park Avenue, New York, New York 10017, Attention: Director, Purchasing.

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Mr. Richard P. Crystal
June 27, 1994
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If the foregoing accurately sets forth our understanding, please signify your acceptance and agreement by executing the enclosed copies of this letter and returning them to me.

Very truly yours,

Philip Morris Incorporated

By: 

Title: 
Thomas Del Bando

ACCEPTED AND AGREED AS OF
THE DATE OF THIS LETTER:

Macy Product Development, a division of
R. H. Macy & Co., Inc.

By: 

Richard P. Crystal

Filing Status: Corporation

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